

ZONING BOARD OF APPEALS MEETING MINUTES

SEPTEMBER 13, 2004

PRESENT: Mary Cardin, Kenneth Braga, Robert Palozej, and Alternates Robert Wambolt, Joseph Snyder, and Adam LaFleche (arr. 7:28 pm)

ABSENT: Mark Spurling, Alfred Francis, and Richard Cleary

STAFF

PRESENT: Rick Kalva, ZEO and Reanna Goodreau, Recording Secretary

I. CALL TO ORDER:

Chairman Cardin called the Zoning Board of Appeals (ZBA) meeting to order at 7:09 PM at the Ellington Town Hall Annex, 57 Main Street, Ellington, CT.

II. PUBLIC COMMENTS: NONE

III. PUBLIC HEARINGS:

1. #V200415—Cumberland Farms, Inc. for variances to Ellington Zoning Regulations, Section 5.3(g)(1)(a)&(b), Variations in Area & Yard Requirements/Additional Yard Requirements; Section 5.2 footnotes 1 & 6, Footnotes to Area & Yard Requirements Schedule; Section 7.7d5(a) &(c), Minimum Parking & Loading Space Requirements/Location of Parking Facilities; Section 7.7b(5)(a) & (b), Signs/Attached Signs Permitted in C, PC, I, & IP Zones; Section 7.7b(6)(a)(2) & (3), Signs/Detached Signs Permitted in C, PC, I, & IP Zones: to reduce front yard setback along Wapping Wood Road from 52.25 feet to 51.3 feet for a convenience store and from 52.25 feet to 18.6 feet for a gas canopy and to reduce front yard setback along Windsorville Road from 47.25 feet to 22.7 feet for a gas canopy; to reduce side yard setback from 50 feet to 33.8 feet and to reduce side yard setback from 50 feet to 30.7 feet for a convenience store; to reduce setback from parking to a structure from 20 feet to 7 feet; to reduce parking setback from front property line from 30 feet to 18.6 feet along Wapping Wood Road and reduce parking setback from 30 feet to 18.9 feet along Windsorville Road; to increase attached signage from 2 signs to 3 signs and to increase the total of sign area for all three signs from 93 square feet to 100.8 square feet; to increase sign area for a detached sign to 48 square feet and increase height to 18 feet for construction of detached sign in conjunction with a convenience store and gas station on property located at 5 Wapping Wood Road, APN 026-009-0000 in a C Zone.

TIME: 7:10 PM

SEATED: M. Cardin, K. Braga, R. Palozej, R. Wambolt, J. Snyder, A. LaFleche (arr. 7:28 pm)

Chairman Cardin noted that the hearing was opened on August 2, 2004. She explained that some commissioners that were at the August 2nd meeting are not at tonight's meeting, but that there is a quorum and that if the hearing is continued or closed tonight, members will be able to listen to the tapes of the hearing in order to be prepared for a vote.

Attorney Marvin Bellis, counsel for the applicant, came forward to give an overview of the application. He explained that the subject lot has a hardship because of the lot configuration. He showed the commission the buildable area, which is created by the setbacks. Attorney Bellis reviewed the variance requests and stated that the new proposal is an improvement over the existing non-conforming site.

Steve Dicoursey, engineer for the applicant, explained each variance in detail. He also reviewed the current site with respect to setbacks. Mr. Dicoursey showed photographs of the site today and superimposed pictures of how the site would look with the new proposal.

Michael Limoges, representative from Cumberland Farms, Inc., explained the reasoning for the proposal. He noted that the size of the building increased from approximately 1,400 square feet to 4,200 square feet in order to supply more products to the customers, to comply with ADA requirements, and to create office space. The location of the gas pumps was moved for safety reasons so that the employees could monitor the pumps.

Steve Savaria, traffic engineer for the applicant, gave an overview of the traffic report that was submitted. He stated that there will be approximately 13-18 increased trips to the store per peak hour. Mr. Savaria noted that they will be required to obtain a permit from the DOT for the new curb cut.

Attorney Bellis replied to questions that were raised at the August hearing. He stated that they are making the store larger so that more products can be sold to the customers and to stay competitive with other stores. He noted that the proposal will be an improvement, allowing for public restrooms, reducing backlog at the pumps, and lessening the existing non-conformities.

The commissioners reviewed the requested variances. Commissioner Wambolt noted that the requested variances for the building, canopy, and parking are improving the non-conforming setbacks. Commissioners Wambolt and Braga took issue with the variances for the height and area of the detached sign. Attorney Bellis noted that the sign is currently in the setback and that it is currently the size that the variance is requesting; they would be moving back the sign to meet the setback requirements. Chairman Cardin took issue with the number of gas pumps.

Several members of the audience came forward in opposition to the proposal. The main issues were the size of the proposed store, the increased number of gas pumps, the size and height of the detached signage, the number of entrances/exits and traffic, the possibility of increased

trash around the neighborhood, and being open 24-hours. Many people in the audience were not in opposition to upgrading the site, but did not think it should be that large.

Jason Belval, 9 Wapping Wood Road, questioned the measurement of the setbacks in the legal notice. Attorney Bellis noted that he made a mathematical error on the application, but it is correctly shown on the plans; the front yard setback request along Wapping Wood Road is actually 62.25' (rather than 52.25') is actually 57.25' (rather than 47.25') along Windsorville Road. Mr. Belval read a letter of opposition from abutters that could not attend the hearing.

Attorney Bellis noted that the dumpsters would be screened and will do whatever screening to the residential properties is required by the Planning & Zoning Commission. He stated that the new facility won't be the source of increased traffic.

MOVED (BRAGA), SECONDED (WAMBOLT) AND PASSED UNANIMOUSLY TO CLOSE THE PUBLIC HEARING FOR #V200415— CUMBERLAND FARMS.

2. #V200416—Dzen Brothers, Inc. for variances to Ellington Zoning Regulations, Section 5.2 Area & Yard Requirements Schedule; Section 7.7d5(c) Minimum Parking & Loading Space Requirements/Location of Parking Facilities; Section 7.7d6(a) Minimum Parking & Loading Space Requirements/Surface & Drainage: to reduce front yard setback from 100 feet to 90 feet to construct a farm stand, to reduce parking setback from the front property line from 50 feet to 18 feet, and to allow a gravel surface treatment of parking, loading, & access roadway areas for use with a farm stand on properties located at 187 Windsorville Road & 8 Pinney Street, APN 009-041-0000 & 009-042-0000 in a PC Zone.

TIME: 9:22 PM

SEATED: M. Cardin, K. Braga, R. Palozej, R. Wambolt, J. Snyder, A. LaFleche

Chairman Cardin reviewed the staff comments.

Peter DeMallie, engineer for the applicant, came forward to explain the proposal. He gave the history of the site and noted that variances were granted for the existing store and parking surface in 1997. Mr. DeMallie stated that they had received an approval for a zone change from C & MF to PC. He explained the variance requests in detailed and explained the hardships, which included that the lot is a corner lot, that it is a undersized lot for the zone it is in, and that the existing and proposed structures are more conforming than what was originally on the site. He also noted that the agricultural business is not patronized as much during peak hours.

Chairman Cardin asked if the applicant had to adhere to the 50' setback to a residential use. Mr. DeMallie didn't believe so and stated that the land was owned by the Santinis and that the building is vacant. He also noted that they did have a 30' landscape buffer.

Chairman Cardin asked why they greenhouses weren't all 21' so that a variance wasn't required and was told that the applicant wants the buildings and parking in the same plane. Also, the 21' greenhouses are custom, but the 24' is standard.

MOVED (BRAGA), SECONDED (WAMBOLT) AND PASSED UNANIMOUSLY TO CLOSE THE PUBLIC HEARING FOR #V200416 – DZEN BROTHERS, INC.

The commissioners discussed the possible hardship. Commissioner Palozej stated that the hardship was that the lot is undersized and is a corner lot. Commissioner Braga noted that the proposal intrudes less into the setback than the existing home. Commissioner Wambolt noted that they do not have anywhere else to expand. The commissioners reviewed the variance requests. Commissioner Wambolt noted that in order for the applicant to expand in a meaningful way, the variances must be approved.

MOVED (PALOZEJ), SECONDED (BRAGA) AND PASSED UNANIMOUSLY TO APPROVE #V200416– DZEN BROTHERS, INC.

HARDSHIP: CORNER LOT & LOT SIZE.

3. #V200417—Paul Stevenson for a variance to Ellington Zoning Regulations, Section 5.2 Area & Yard Requirements & 5.3g(1)(b) Additional Yard Requirements: to reduce the front yard setback from 55 feet to 48.5 feet for a detached garage on property located at 45 Middle Road, APN 052-009-0000 in an AA Zone.

TIME: 10:00 PM

SEATED: M. Cardin, K. Braga, R. Palozej, R. Wambolt, J. Snyder, A. LaFleche

Paul Stevenson came forward to explain his request. He stated that there is not a lot of area to put the detached garage. He noted that the septic system is located in the back and the lot is heavily wooded. Mrs. Stevenson stated that they will use the existing driveway.

MOVED (BRAGA), SECONDED (PALOZEJ) AND PASSED UNANIMOUSLY TO CLOSE THE PUBLIC HEARING FOR #V200417 – PAUL STEVENSON.

MOVED (LAFLECHE), SECONDED (BRAGA) AND PASSED UNANIMOUSLY TO APPROVE #V200417– PAUL STEVENSON.

HARDSHIP: LOCATION OF SEPTIC SYSTEM & HOME.

IV. UNFINISHED BUSINESS: (NONE)

V. NEW BUSINESS:

1. #V200418 – Bruce & Karen Luginbuhl appeal of the Zoning Enforcement Officer's Cease & Desist Order at 34 Ludwig Road. **(RECEIPT ONLY)**

BY CONSENSUS, THE AGENCY NOTED RECEIPT OF #V200418.

2. #V200419—Tony Littizzio for the Board of Education for a variance to Ellington Zoning Regulations, Section 5.2 Area & Yard Requirements: to reduce the side yard setback from 10 feet to 1 foot for storage shed on property located at 47 Main Street, APN 064-016-0000 in a C Zone. **(RECEIPT ONLY)**

BY CONSENSUS, THE AGENCY NOTED RECEIPT OF #V200419.

3. Discussion of the Build Out Report (transmittal from the First Selectman).

BY CONSENSUS, THE AGENCY REQUESTED TO PLACE THIS ITEM ON THE OCTOBER 4, 2004 AGENDA.

VI. ADMINISTRATIVE BUSINESS:

1. Discussion re: "CenterEdge" and Ad Hoc Committee.

R. Goodreau explained CenterEdge and noted that there would be a presentation by them in October. The commission asked to be updated as to the specific date and location.

2. Approval of Meeting Minutes
 - a. July 12, 2004 meeting minutes

MOVED (WAMBOLT) SECONDED (PALOZEJ) AND PASSED (ABSTAINED: LAFLECHE) TO APPROVE THE JULY 12, 2004 MEETING MINUTES.

- b. August 2, 2004 meeting minutes

TABLED TO THE OCTOBER 4, 2004 MEETING DUE TO LACK OF QUORUM.

3. Correspondence:
 - a. Letter to Susan Boyan, esq. from Rick Kalva dated, 8/24/04.

R. Kalva stated that he had driven by 1 Dogwood Lane and the shed had been moved. He will be measuring the location of the shed and issuing a zoning permit if it is in compliance. Commissioner Wambolt noted his concern about people like this citizen at 1 Dogwood and commended Mr. Kalva on bringing this issue to closure.

- b. Memo to Dennis Milanovich from Matt Davis dated, 9/8/04.

VII. ADJOURNMENT:

**MOVED (PALOZEJ) SECONDED (BRAGA) AND PASSED UNANIMOUSLY TO ADJOURN
THE MEETING AT 10:18 PM.**

Respectfully Submitted,

Reanna Goodreau
Recording Secretary